

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

ASHLEE E. PADGETT, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 3:23-cv-00071-MPB-CSW
)	
JACOB CARL BUTLER, <i>et al.</i> ,)	
)	
Defendants.)	

AFFIDAVIT IN SUPPORT OF REQUEST FOR ENTRY OF DEFAULT

I, Douglas K. Briody, your Affiant, under penalty of perjury, declare and state, as follows, that:

1. I am an adult, over the age of eighteen (18) years, and I am competent to testify in this matter.
2. I make this Affidavit upon my own personal knowledge and belief and based upon my familiarity with the facts and circumstances set forth herein.
3. I understand that I have a duty to speak truthfully as to these matters.
4. I am one (1) of the attorneys of record for the Plaintiffs, Ashlee E. Padgett, Casey A. Boyer and Kristy A. Martin, Sean R. Giolitto and Christopher S. Pentecost, and Haley Kanizar, individually, and as the parents, next friends, and natural guardians of their respective minor children, B.L.H., S.A.B., N.C.G., and D.M.F., and the said minor children, by their respective next friends (collectively, the "Plaintiffs"), in the above-captioned action.
5. The Plaintiffs commenced this action in the Vanderburgh Circuit Court, in Vanderburgh County, in the State of Indiana, by filing their Complaint for Damages (Demand

for Trial by Jury) therein, under Cause No. 82C01-2304-CT-001700 thereof (“Complaint”), on April 6, 2023. [Dkt. 1-1; Dkt. 1-2, pp. 13, 17-128.]

6. On April 6, 2023, Plaintiffs filed a proposed Summons for Defendant Day-Drian M. Franklin with the Clerk of the Vanderburgh Circuit Court. [Dkt. 1-2, p. 15.]

7. The Clerk of the Vanderburgh Circuit Court issued a Summons directed to Defendant Day-Drian M. Franklin on April 10, 2023. [Dkt. 1-2, pp. 15, 152-154.]

8. On April 12, 2023, Plaintiffs served Defendant Day-Drian M. Franklin with said Summons and a copy of the Plaintiffs’ Complaint, *via* Certified Mail, Return Receipt Requested, utilizing PS Forms 3811, in accordance with Rules 4.1(A)(1) and 4.6(A) and (B) of the Indiana Rules of Trial Procedure.

9. On April 14, 2023, Plaintiffs filed a Certificate of Issuance of Summons with the Clerk of the Vanderburgh Circuit Court. [Dkt. 1-2, pp. 15, 155-161.]

10. The above-captioned proceeding was instituted in this Court by the filing of a Notice of Removal by Defendants University of Evansville and University of Evansville Board of Trustees on April 27, 2023. [Dkt. 1.]

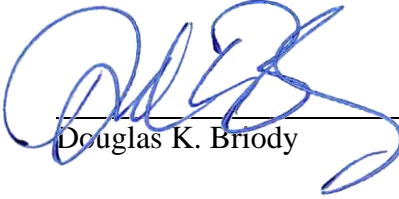
11. Service of process was had on Defendant Day-Drian Franklin in accordance with Indiana law on April 12, 2023. [Dkt. 58; Dkt. 58-6.]

12. More than twenty-one (21) days have elapsed since Defendant Day-Drian Franklin was served in this action, and said Defendant has wholly failed to plead or otherwise defend as required by the Federal Rules of Civil Procedure.

FURTHER AFFIANT SAITH NOT.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, information, and belief at this time.

Executed on November 29, 2023.



Douglas K. Briody